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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,325	09/11/2003	Aurora L. Fernandez-Decastro	DECASTRO10	3767

1444 7590 11/15/2005

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EXAMINER

LEWIS, AARON J

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/659,325

Applicant(s)FERNANDEZ-DECASTRO,
AURORA L.**Examiner**

AARON J. LEWIS

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/06/2005 (AMENDMENT).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19 and 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19,21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Begum ('215) in view of De Saint Rapt et al. ('267).

As to claim 19, Begum discloses a mask (12) covering at least the nose and mouth of a wearer, said mask consisting essentially of filtering media for filtering air (col.3, lines 7-10) to the wearer; said mask having an area (52,54) approximately over the mouth of the wearer that can be opened and closed at will without removing the mask; said area selected from the group consisting of: a. an opening (52) covered by elastic or flexible (54) material; b. elastic or flexible material that is self-closing; c. an elastic or flexible (54) flap over a hole (52) or aperture; d. a detachable flexible or elastic patch over a hole or aperture; and e. an aperture or hole which is self-opening and self-closing.

The difference between Begum and claim 19 is said area being constructed such that said area opens when a device is inserted into the area and closes when the device is removed therefrom.

De Saint Rapt et al., in a face mask covering at least the nose and mouth of a wearer, teach an area (disk c) constructed such that said area opens when a device

(feeding/drinking tube i) is inserted into the area and closes when the device is removed therefrom for the purpose of automatically resealing the opening against contamination (page 1, col.1, lines 15-23 and page 2, col.1, lines 22-26).

It would have been obvious to modify the drinking/feeding opening (54,55) of Begum to include a self-sealing opening because it would have provided a means for automatically resealing the opening against contamination as taught by De Saint Rapt et al..

As to claim 21, De Saint Rapt et al. teach the area that can be opened or closed at will comprises a hole (hole d) or aperture covered with touching or overlapping pieces of elastic or flexible material (disks c of fig.4 of De Saint Rapt et al.).

As to claim 22, Begum as modified by De Saint Rapt et al. teach the area that can be opened and closed at will comprises a hole (hole d of De Saint Rapt et al.) or aperture covered with a flap made of elastic or flexible material (elastic flexible disks c of De Saint Rapt et al.) attached to the mask.

As to claim 23, De Saint Rapt et al. (figs.2-4,6) teach the area that can be opened and closed at will is formed of an elastic or flexible self-closing material (disks c) over a hole or aperture (hole d).

As to claim 24, Begum discloses attachments (18,20) to maintain the mask in place on a wearer.

As to claim 25, Begum discloses the area (52) that can be opened and closed at will comprises a hole or aperture which is covered by a flexible (54) or elastic removable patch which can be re-affixed to the mask (col.4, lines 8-18).

As to claim 26, Begum (fig.6) as modified by De Saint Rapt et al. (fig.8) teach a mask which substantially covers the wearer's head.

As to claim 27, Begum discloses the mask being made of a flexible material (col.3, lines 11-15 and lines 23-29).

As to claim 28, De Saint Rapt et al. teach said area (disks c) approximately over the mouth of the wearer is self-closing (figs.4 and 6).

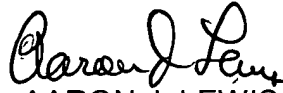
Response to Arguments

3. Applicant's arguments with respect to claims 19, 21-28 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON J. LEWIS whose telephone number is (571) 272-4795. The examiner can normally be reached on 9:30AM-6:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HENRY A. BENNETT can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AARON J. LEWIS
Primary Examiner
Art Unit 3743

Aaron J. Lewis
November 10, 2005